

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Conference Room 119A & B
Phoenix, AZ 85007**

May 16, 2001

Members Attending:

Honorable Michael Lester, Chair
Honorable George Anagnost
Ms. Kathy Barrett
Honorable Sherry Geisler
Honorable Larry Imus
Mr. Don Jacobson

Ms. Pamela Jones
Honorable G. Michael Osterfeld
Honorable Antonio Riojas, Jr.
Mr. Ben Rowe, Jr.
Mr. Paul Thomas
Honorable R. Michael Traynor

Absent Members:

Hon. Manuel Figueroa
Mr. Theodore Jarvi
Honorable John Kennedy(excused)
Honorable Toni Lorona (excused)

Ms. Barbara Lasater
Honorable Mary Scott (excused)
Mr. Frank Startzell (excused)
Honorable William Sutton, Jr. (excused)

Guests:

Honorable Robert Dorfman
Mr. John Fearing
Honorable Elizabeth Finn

Mr. Gary Krcmarik
Honorable Sheldon Weisberg

Staff:

Ms. Theresa Barrett
Mr. George Diaz, Jr.
Ms. Catherine Drezak
Mr. Greg Eades
Ms. Debby Finkel
Ms. Theresa Gonzales
Ms. Jennifer Greene

Ms. Debra A. Hall
Ms. Lori Johnson
Ms. Christine Powell
Mr. David Sands
Mr. Bob Schaller
Mr. Richard Travis
Mr. Ted Wilson

REGULAR BUSINESS

1. Call to Order

Judge Michael Lester called the meeting to order at 11:10 a.m. He introduced Ms. Christine Powell, strategic planning officer for the Administrative Office of the Courts (AOC).

Ms. Powell thanked the members of LJC for responding to her survey asking for issues and trends that are important to limited jurisdiction courts. Judge Lester

stated that he is on the AJC strategic planning subcommittee and will be at an all-day planning session before the Judicial Conference in June.

2. Approval of Minutes from the February 14, 2001 Meeting

Judge Lester asked if there were any changes or corrections to the February meeting minutes. He suggested changing the last bullet on page 3 from: "Can the prosecutors handle the plea issue before if the stipulated guilty plea is entered with the court with a stipulated guilty plea?" to "Can the prosecutors handle the plea issue before the stipulated guilty plea is entered with the court with a stipulated guilty plea?"

MOTION: Motion was made and seconded to **approve the minutes from the February 14, 2001 meeting as amended. The motion was passed unanimously. LJC-01-10.**

Judge Lester mentioned that AJC passed Rule 10.2 on an experimental basis. It is still in draft form.

INFORMATION/POTENTIAL ACTION ITEMS

3. Legislative Updates

Mr. David Sands introduced Ms. Theresa Gonzales, legislative intern and Mr. Richard Travis, public information officer for the AOC.

Mr. George Diaz, Jr. and Mr. Sands presented several bills that have been passed and signed. The general effective date is August 9, 2001 for bills that do not have their own enactment dates or emergency effective dates in them.

SB 1137, no chapter # yet - allows police to impound vehicles for DUI violation, suspended driver's license or too many points on the driver's license. To secure release of the vehicle, the owner/spouse must show a valid driver's license and proof of registration or proof of installation of the ignition interlock device (IID). Courts may order early release of the vehicle if the defendant borrowed or rented the vehicle that was impounded.

HB 2053, Chapter 274 - On receipt of a record of conviction for a violation of underage DUI, MVD is required to suspend or refuse to issue a driver's license for two years while the defendant is 18, 19 or 20 years old.

HB 2182, Chapter 253 - Specifies that the 12-month IID sentences begins either on the date of conviction or the conclusion of the drivers license suspension/revocation, whichever is later. The bill was predominately cleanup to ease the transfer of information between MVD and the court.

SB 1089, Chapter 95 - Lowers the blood alcohol concentration from .10 to .08 for DUI offenses. This has an effective date of September 1, 2001.

HB 2473, Chapter 51 - Lowers the blood alcohol concentration is reduces from .18 grams per 100 ml of blood to .15.

SB 2277, Chapter 190 - Emphasizes that persons convicted of disobeying red-light traffic control signals must be ordered by MVD to attend and complete Traffic Safety School or have driving privileges suspended.

HB 2370, Chapter 337 - Cracks down on drivers speeding through a highway construction zone when workers are present. An assessment equal to the civil penalty is assessed. Payment of the assessment is to be at the same time as the civil penalty and in the case of partial payments, the allocation of the assessment, penalty and surcharge are divided in proportion the civil penalty, assessment and surcharges are to the total amount due.

The fine for driving in the HOV lane has been reduced from \$350 to \$200 with \$100 allocated to the Arizona Clean Air fund. The remaining \$100 is allocated to the gerenal fund.

SB 1007, Chapter 8 - Extends the \$20 time payment fee to December 31, 2003.

HB 2489, Chapter 301 - Increases by 60 % the amount of money sheriffs and constables may charge for service of process and other fees.

SB 2274, Chapter 2 - Mandates that sheriffs or keepers of the jail accept bonds from any person and not just bail bond agencies.

HB 2085, Chapter 41 - Clarifies the existing statute, A.R.S. § 12-302.

SB 1084, Chapter 255 - Eliminates the \$5 filing fee for orders of protection and injunctions against harassment and any appeals fees.

HB 2268, Chapter 217 and HB 2223, Chapter 334 - Both use the same definition of domestic violence.

HB 2223, Chapter 334 - States that a law enforcement affidavit may be used instead of appearing in front of a judicial officer. The requirement for a bond on appeal not to exceed the maximum fine has been eliminated.

Mr. Sands stated that the Legislative Update is being developed for publication.

Mr. Diaz stated that the legislative broadcast is scheduled for June 21st. The deadline for legislative proposals for the 2002 legislative session is being moved up.

Judge Lester thanked Mr. Diaz and Mr. Sands for their efforts on behalf of the courts in Arizona.

4. Arizona Judicial Code of Administration (ACJA) for Defensive Driving Implementation Update

Mr. Bob Schaller reported that Administrative Order (AO) 2000-84 was adopted and became effective March 1, 2001. The prohibition against law officer instructors was opposed by AJC. Three internet traffic schools have applied for certification. New Defensive Driving Program binders are being developed for dissemination to the courts. The Arizona Judicial Information Network (AJIN) has a new Defensive Driving Program web page with resource information on it.

It has been requested that the DDP conduct a study to see if the flow of information can go through ACAP from the schools to the courts.

5. Defensive Driving Subcommittee

Ms. Kathy Barrett stated her committee had nothing additional to report.

LUNCH BREAK

6. Final Disposition Report (FDR)

Judge Elizabeth Finn presented the draft Final Disposition Report (FDR) with an overview of current processes and issues concerning FDR reporting to DPS. She reported on a pilot project currently underway in Maricopa County which will have impact statewide in the future, particularly in the FDR form. In order to assure that fta offenses are properly recorded at DPS, certain modifications are being proposed for the FDR form used by all courts. She summarized the changes needed as such: the superior court case number and limited jurisdiction court case number fields will be merged into one singular case number field, to allow space for a court (name) and violation date for each charge listed on the form.

7. ACJA for Records Retention and Disposition Schedule for Limited Jurisdiction Courts

Ms. Catherine Drezak stated that the federal government needs to have court record to prosecute federal violations of domestic violence with the history of prior convictions. Her contact at the Bureau of Alcohol, Tobacco and Firearms

has indicated that lifetime electronic court records is acceptable. Mr. Jacobson asked if DPS would be able to store the records the ATF needs for future prosecutions. Mr. Ted Wilson will discuss this possibility with DPS. Does ATF truly need court records or will DPS records be acceptable according to ATF's definition of court record?

Judge Lester stated that somehow there should be a way of transferring records after 5 years in the court, either for storage somewhere else or microfilmed and shipped to ATF for their storage. He wants this issue sent back to the Records Retention Committee and the Committee on Technology (COT) for their review.

The Lautenberg Amendment would not uphold a set aside of conviction. The disparity is that if the state overturns a conviction and the federal government doesn't accept the conviction, what happens to the case? There is no conviction or finding of guilt. Ms. Drezak will check with ATF about their position. Ms. Drezak will report back to LJC in September.

Mr. Wilson reported that the Department of Library, Archive and Public Records is willing to accept a blanket waiver in advance so courts will be allowed to purge/destroy old cases without the department reviewing them.

MOTION: Motion made and seconded that the **proposed amendment for the advance blanket waiver be accepted. Motion passed unanimously. LJC 01-11**

A suggestion was made that the term "and" be changed to "and/or" to give more flexibility regarding civil judgments. It was further suggested that a new subsection to 1g be added separating local ordinances from other civil judgments, giving them a 5 year retention and stating in remarks "After adjudication and satisfaction of judgment."

MOTION: Motion was made and seconded to **separate local ordinances (as new 1gi) from civil judgments with a 5 year retention and stating in remarks "After adjudication and satisfaction of judgment." The current section 1gi "Other civil cases including dismissals would become new 1gii. Motion passed unanimously. LJC-01-12**

8. ACJA for Operational Reviews

Ms. Debra Hall stated that she had received feedback from Judges Lester and Traynor concerning the appeals process for limited jurisdiction courts. The contacts from the other AOC divisions involved agree with this addition. This change now has to be approved by other AJC committees before AJC can vote on it.

MOTION: Motion was made and seconded to **approve the Administrative Code for Operational Reviews as presented. Motion passed unanimously. LJC-01-13.**

SUBCOMMITTEES

9. Forms and Rules Subcommittee: Proposed Rules of Civil Traffic Procedures

Judge Anagnost stated that some of the remaining concerns about changing the rules of civil traffic procedures are in the areas of appropriate accounting procedures for filing fees and if the posting of bond should not be required.

Judge Imus asked why couldn't appeals for civil traffic violations be eliminated. Judge Dorfman asked about limiting the circumstances in which appeals would be allowed.

Judge Traynor stated that no matter what direction is taken statutes would need to be changed as well. He cited A.R.S. §28-1600 in particular.

Judge Lester asked Ms. Hall to find out how many civil traffic cases are appealed; and, of those, how many are remanded.

Ms. Barrett and Judge Traynor commended Judge Anagnost for his efforts. They noted that the proposed rules were easier to read and they recognized that pro per litigants were the main audience.

Judge Dorfman noted that the state has the right to appeal in "not responsible" cases, but they do not have that right in criminal cases.

10. Strategic Planning Subcommittee

Mr. Don Jacobson stated that the AJC will be reviewing a new strategic agenda. There will be an all day training before the Judicial Conference which he may attend.

11. Legislative Subcommittee

Judge Michael Traynor reported that this is the time to start looking at potential items for legislative proposals. Judge Anagnost suggested looking at a Title 28 rewrite.

OTHER BUSINESS

12. Report and Recommendations of the Ad Hoc Committee to Study Public Access to Electronic Records

Judge Sheldon Weisberg, Judge Robert Dorfman, Mr. John Fearing and Ms. Jennifer Greene represented the committee. Judge Weisberg explained that the committee is recommending only two types of case files be publicly accessible via Internet initially: general civil and general criminal. For family cases, mental health, probate and juvenile cases, posting on the Internet the actual case files should await the redaction of sensitive data such as social security numbers and financial account numbers. While that information could still be viewed at the courthouse, it would not be part of the Internet-version of the case file. The committee is concerned about identification theft. Accordingly, they want to promote the court's use of a specific form that will segregate confidential information unless it is relevant to an issue to be decided in a case. The form could be viewed in hard copy at the courthouse but not online.

Concern was expressed about erecting a firewall that prevents unauthorized people from getting into the court's automation system.

The committee suggests that one web site be used as a central clearing house for case information. At the same time, each individual court could have its own site if wanted.

Judge Lester commended the committee.

MOTION: Motion was made and seconded to **accept the ad hoc committee's report and recommendations as presented.**
Motion passed unanimously. LJC-01-14

13. Call to the Public

Judge Lester called to the public. No one from the public responded.

Judge Lester remarked that this was the last LJC meeting for Judges Imus and Sutton and Mr. Frank Startzell. He thanked them for their participation on LJC. He also thanked all the AOC staff who have been involved with LJC over the past 6 years.

14. Adjournment

Motion: Motion was made and seconded to **adjourn the meeting.**
Motion passed. LJC 01-15.

Meeting was adjourned at 3:25 p.m.

Respectfully submitted,

Ms. Debby Finkel
Staff to the Limited Jurisdiction Courts Committee